

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)

v.)

JOSEPH ANTHONY GUTIERREZ)

Cr. No. 2:06-cr-123-MHT

**GOVERNMENT'S MOTION FOR DOWNWARD DEPARTURE
AND CERTIFICATION OF SUBSTANTIAL ASSISTANCE
PURSUANT TO § 5K1.1, UNITED STATES SENTENCING GUIDELINES**

COMES NOW the United States of America, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and files the above-captioned motion, and as reasons therefore, submits the following:

1. Defendant entered a plea of guilty under Rule 11(c)(1)(C) to an indictment charging violations of Title 21, United States Code, Section 846 and 841(a) pursuant to a plea agreement.

2. Defendant agreed to cooperate with the Government in the instant cause and in subsequent investigations as necessary, and to waive his rights to appeal or collaterally attack the guilty plea or sentence.

3. The United States submits the defendant has cooperated with the United States and has abided by the terms of his plea agreement. The assistance provided by Defendant should be considered substantial.

4. The Government is satisfied that Defendant is entitled to be considered for a reduction of sentence under § 5K1.1 U.S.S.G., and Title 18, United States Code, Section 3553(e) and moves this Court to reduce the applicable offense level of Defendant by four levels.

Respectfully submitted this the 22nd day of September, 2006.

LEURA G. CANARY
UNITED STATES ATTORNEY

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ASB-1613-N77A

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CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Kevin Butler, Esquire.

Respectfully submitted,

s/A. Clark Morris
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